

FELONIOUS CHILD ABUSE [INFLECTING SERIOUS BODILY INJURY] [RESULTING IN PERMANENT OR PROTRACTED LOSS OR IMPAIRMENT OF ANY MENTAL OR EMOTIONAL FUNCTION]. G.S. § 14-318.4(a3) FELONY.

The defendant has been charged with felonious child abuse [inflicting serious bodily injury] [resulting in permanent or protracted loss or impairment of any mental or emotional function].

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant was [the parent of] [a person providing [care to] [supervision of]]¹ the child.

Second, that at that time the child had not yet reached the child's sixteenth birthday.

And Third, that the defendant (without justification or excuse)² [intentionally³ inflicted a serious bodily injury to the child] (or) [intentionally assaulted the child which proximately resulted in serious bodily injury to the child] (or) [intentionally assaulted the child which proximately resulted in permanent or protracted loss or impairment of any mental or emotional function of the child]. (A serious bodily injury is defined as a bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.)⁴

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was [the parent of] [a person providing [care for] [supervision of]] a

1. See *State v. Carrilo*, 149 N.C. App. 543, 562 S.E.2d 47 (2002) (concluding that man who lived with the child's mother, who shared a bedroom with mother and child, and who cared for the child for short periods of time over a two month period provided supervision to the child under G.S. 14-318.4).

2. This parenthetical phrase should be given only where there is evidence of justification or excuse, such as self-defense (see N.C.P.I. -- Crim. 308.45).

3. If a definition of intent is needed, see N.C.P.I.--Crim. 120.10.

4. "Serious bodily injury" is defined by G.S. 14-318.4(d)(1).

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child, that the child had not reached the child's sixteenth birthday, and that the defendant (without justification or excuse) [intentionally inflicted a serious bodily injury to the child] (or) [intentionally assaulted the child which proximately resulted in serious bodily injury to the child] (or) [intentionally assaulted the child which proximately resulted in permanent or protracted loss or impairment of any mental or emotional function of the child], it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.